

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

MICHAEL KELLY, as Administrator of the
ESTATE OF EVERETT KELLY, Deceased,
and **PATTI KELLY**,

Plaintiffs,

-vs-

MARTIN & BAYLEY, INC., d/b/a
Huck's Convenience Store, and
PHILIP MORRIS USA, INC.,

Defendants.

Case No. 05-cv-409-DRH

ORDER REGARDING COMPLETENESS OF RECORD

This matter, coming before the Court on Defendants' Motion to Ensure the Existence of a Complete Record, and the Court being fully advised in the matter:

The Court HEREBY FINDS that the materials referenced and incorporated by Defendants in Defendants' Notice of Removal, which was filed on June 9, 2005, are properly part of the record of this case.

Accordingly:

IT IS HEREBY ORDERED that Defendants may file in this Court, within five business days, the following materials, which will be included in the record of this case:

(1) A brief entitled "Defendant's Opposition to Plaintiff's Motion to Remand," which Philip Morris USA Inc. ("PM USA") filed in this Court on August 5, 2003, in *Arnold v. Philip Morris USA Inc.*, Case No. 03-403 (S.D. Ill);

(2) The exhibits PM USA filed in support of that brief; and

(3) The following documents referenced in Defendants' removal/remand papers in

this case that are identified by electronic docket document numbers but which were not included as exhibits to those filings:

(a) *Sandrowski v. Philip Morris USA, Inc.*, Case No.03-cv-555 MJR (S. D. Ill.) Memo. and Order, October 6, 2003 (Doc. No. 9);

(b) *Kelly v. Philip Morris USA, Inc.*, Case No. 03-cv-207 MRJ (S. D. Ill.) Memo. and Order, April 8, 2003 (Doc. No. 7); and

(c) *Arnold v. Philip Morris USA, Inc.*, Case No. 03-cv-403 MJR (S. D. Ill.) Memo. and Order, March 2, 2004 (Doc. No. 15).

DATED: February 27, 2006

/s/ David RHerndon
JUDGE